

**Outboard Marine Corp.
Briefing Memo
January 10, 1994**

The purpose of this memo is to summarize several violations of the Consent Decree which have recently occurred at the OMC site in Waukegan, Il. These violations are considered to be extremely serious in nature and it is recommended that a strong response by the USEPA be taken.

Briefly, these violations and our response would entail three actions:

- * Require additional work to be performed in the West Containment Cell area by OMC (See item 1 below)
- * Initiate and refer a CERCLA 109(c) civil penalty action against OMC (See item 2 below)
- * Assess Stipulated Penalties against OMC (See items 4, 5, and 6 below)

Further information on each of these recommended actions is as follows:

1) OMC contracted with Golder Associates in May to evaluate potential problems with the West Containment Cell. A report was submitted to OMC by Golder in July which stated "it appears that the West Containment Cell does not provide the degree of hydraulic isolation originally anticipated" and also indicated that the required performance standards for permeability were not achieved. It was also documented through groundwater monitoring that the cell was filling up with water much more rapidly than anticipated. The USEPA was not made aware of this until November 1993 and only after diligent efforts by the USACE resulted in obtaining the groundwater data and the Golder report from sources other than OMC. To date, OMC has not yet submitted this report to the USEPA and has provided no explanation as to the apparent failure of this cell.

Pursuant to the Decree, the West Cell is one of seven major components of work; that the operation, maintenance and monitoring of the effectiveness of the work is also a major component of work; that OMC is obligated to ensure achievement of the performance standards; and that OMC has agreed to ensure performance of any additional work to achieve the performance standards.



Proposed resolution: USEPA (ORC and RRB), in concurrence with IEPA, have requested OMC propose a scope of work and schedule to address the apparent failure of the cell. We are awaiting OMC's reply.

2) OMC has failed to maintain an inward hydraulic gradient in the West Containment Cell as is required in the O&M Plan. This serious violation was allowed to occur even though OMC was aware of the increasing hydraulic heads within the cell. Data that was recently obtained by USEPA, indicates the gradient failure occurred between July 20 and August 5, 1993 and was allowed to worsen until a pump was installed and the gradient reestablished between September 3 and 4, 1993. OMC has failed to maintain the west containment cell although it is only months from its completion. Be advised that the cells are expected to maintain their integrity and contain the emplaced PCBs in perpetuity. Further, the acceptance of the remedy for the clean up of PCBs in and around Waukegan, as set forth in the 1989 ROD Amendment, was based on and agreed to as a result of OMC's assurances that the cells would be able to maintain their integrity.

Proposed resolution: Initiate and refer a CERCLA 109(c) civil penalty action against OMC, in an amount not to exceed \$25,000 per day for each day that an inward gradient was not maintained.

3) OMC has stated that they will conduct a direct discharge from the PNA waste cell into the harbor after carbon treatment. This is in violation of the agreed upon treatment method as described in the supporting appendices to the Decree which states that "After closure of the PNA cell...if additional water accumulates to a depth of one foot...the water shall be pumped to the NSSD" (OMC has had no contact with NSSD on this matter). IEPA and USEPA have both strongly stated in written correspondence (12/29/93) that this proposed action is not approvable. In addition, since water has accumulated to a depth of approximately 11 inches, both Agencies have pointed out to OMC that this issue should have been raised with NSSD in a timely manner so that a potential crisis situation would not be artificially created by OMC.

Proposed resolution: Enforcement of the required course of action without deviation.

4) Section VIII, Part C of the Consent Decree states that the Parties shall allow split or duplicate samples to be taken of any samples collected in connection with the implementation of the Consent Decree. Also, at least ten days in advance of any sample collection activity, the Party collecting samples shall notify all other parties of the time of sample collection and the number and type of samples to be collected.

Monitoring well W-10 was recently sampled and a PCB concentration

of 52 ppb was detected. This concentration exceeds the average groundwater PCB concentration for this well by 33 ppb. This well was subsequently resampled without notification and without the USEPA having a representative on site for observation and/or duplicate/split sample collection (a PCB concentration of 3 ppb was detected during the resampling performed by OMC's representative).

Proposed resolution: The sample results will not be accepted and that further sampling is required and must be in conformance with the Consent Decree. In addition, stipulated penalties, based on a failure to report, should be assessed for this violation.

5) Appendix VII, Section 4, Detection Monitoring, states that if the detection monitoring change in PCB level is greater than 10 ppb over the average PCB concentration established, then the USEPA shall be notified by phone within 24 hours of confirmation of the detection monitoring results. As stated above, monitoring well W-10 was sampled and contained a PCB concentration of 52 ppb. This concentration exceeds the established background concentration of 19 ppb at W-10 by 33 ppb. USEPA has not, as of yet, been notified as required.

Proposed resolution: Assessment of stipulated penalties.

6) Section VIII of the Consent Decree require that OMC submit the results of all sampling and/or tests or other data generated by OMC, the Trust, its agents and contractors. Section IX of the Consent Decree describes the specific reporting requirements that must be provided to the USEPA and IEPA. OMC tasked Golder Associates to conduct an assessment of the West Containment Cell on May 12, 1993. A letter report was completed by Golder on July 14, 1993 and was subsequently received by OMC on July 19, 1993. The quarterly report for the period of April 1, 1993 - June 30, 1993 contained no reference to this work, and subsequent quarterly reports have also contained no reference to this work. Additionally, the USEPA only became aware of this report and its contents on or about November 18, 1993 when the USACE informed USEPA of the existence of this report. To date, OMC has not provided a copy of this report to the USEPA. Therefore, OMC is in violation of Sections VIII and IX of the Consent Decree.

Proposed resolution: Assessment of stipulated penalties.

OMC SITE — DURING REMEDIAL ACTION

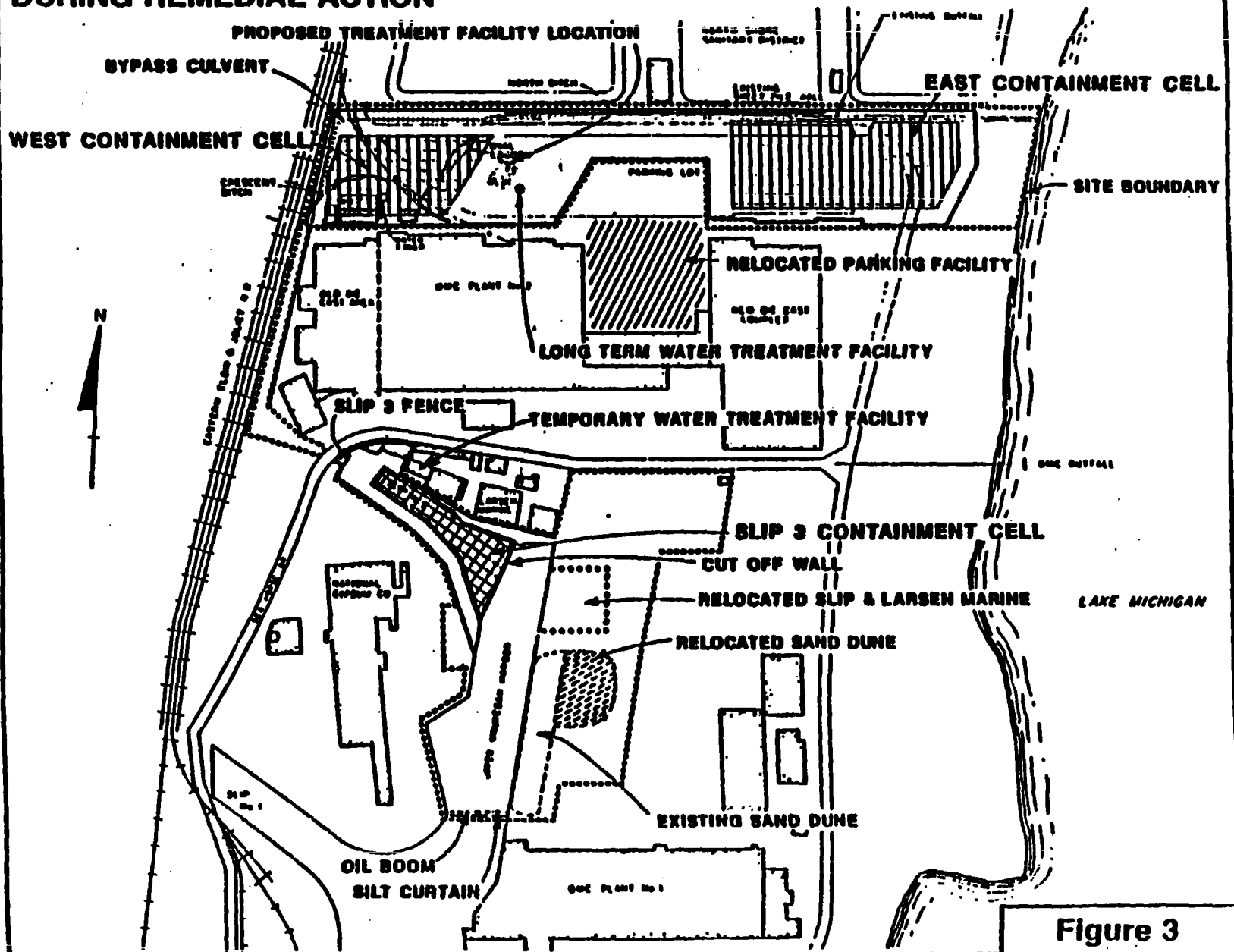


Figure 3